

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: STEVEN I. LOCKE
U.S. MAGISTRATE JUDGE

DATE: 4/20/2018
TIME: 10:30 am

CASE: CV 17-4792(SJF) Hernandez et al v. Sikka et al

TYPE OF CONFERENCE: STATUS FTR: 12:49-1:30

APPEARANCES:

For Plaintiff: Marcus Monteiro

For Defendant: Douglas Rowe

THE FOLLOWING RULINGS WERE MADE:

- ☒ Other: Status conference held. Oral argument held. Plaintiffs' motion for certification, see DE [14, 16], is denied. The only facts that Plaintiffs submit in support their motion come from two paragraphs the affidavit of Enrique Maldonado, DE [16-2]:
- 11. The Defendants employ(ed) about four other employees who were also food preparer/cooks and one dish washer. These other employees generally had similar job duties as me. The other food preparers/cooks also worked more than 40 hours per week.
- 12. Based on my conversations with my co-worker, who was one of the other cooks, the other cooks were also paid cash and were also not paid any overtime. Additionally, based on my observations, I could see that Defendants failed to properly record my co-workers [sic] hours worked.

These facts alone are insufficient to warrant certification. Paragraph 11 states that certain food preparers/cooks worked for more than 40 hours per week but does not identify any one of them and does not state that they are owed any overtime. Paragraph 12 states that one unidentified coworker was not paid overtime, but does not state that this specific coworker ever worked more than 40 hours per week. There are also no dates of employment provided establishing that any potential class members' claims are timely.

Accordingly, the motion for certification is denied. See *Ji v. Jling, Inc.*, 2016 WL 2939154 (E.D.N.Y. May 19, 2016) (setting forth the applicable standards which the Court incorporates by reference and applies here, and denying certification).

SO ORDERED

/s/Steven I. Locke
STEVEN I. LOCKE
United States Magistrate Judge